

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF CALIFORNIA

3 THIS DOCUMENT APPLIES TO
4 PLAINTIFF(S): JOSEPH A. PANTO,
5 INDIVIDUALLY AND ON BEHALF OF
6 THE ESTATE OF LUCY PANTO,
7 DECEASED, AND THE WRONGFUL
8 DEATH HEIRS OF LUCY PANTO,
9 DECEASED

10 Plaintiffs

11 v.

- 12 ☐ AMYLIN PHARMACEUTICALS, LLC,
13 ☐ ELI LILLY AND COMPANY,
14 ☒ MERCK SHARP & DOHME CORP.,
15 ☐ NOVO NORDISK INC.,

16 (Check all the above that apply)

17 Defendants

Pertains To Civil Action No.:

In Re: Incretin-Based Therapies
Products Liability Litigation

MDL NO. 2452

**SHORT FORM COMPLAINT
FOR DAMAGES**

Case No.: 13md2452 AJB(MDD)

18 **SHORT FORM COMPLAINT FOR DAMAGES**

19 COMES NOW the Plaintiff(s) named herein, and for Complaint against the
20 Defendants named herein, incorporates and fully adopts the Master Form Complaint
21 (the "Master Complaint") in MDL No. 2452 by reference. Plaintiff(s) further shows
22 the Court as follows:

23 **JURISDICTION AND VENUE**

24 1. Jurisdiction in this Complaint is based on:

25 ☒ Diversity of Citizenship

26 ☐ Other (As set forth below, the basis of any additional ground for
27 jurisdiction must be pleaded in sufficient detail as required by the
28 applicable Federal Rules of Civil Procedure):

2. District Court and Division in which you might have otherwise filed
absent the direct filing order entered by this Court: United States District Court for
the Eastern District of Pennsylvania

3. Plaintiff(s) further adopts the allegations contained in the following
paragraphs of the Jurisdiction and Venue section of the Master Complaint:

☒ Paragraph 10;

☒ Paragraph 11;

☒ Paragraph 12;

☒ Paragraph 13;

☒ Paragraph 14;

☒ Paragraph 15; and/or

☐ Other allegations as to jurisdiction and venue (Plead in sufficient detail in
numbered paragraphs (numbered to begin with 3(a)) as required by the
applicable Federal Rules of Civil Procedure): _____

PLAINTIFF/INJURED PARTY INFORMATION

4. Injured/Deceased Party's Name: LUCY PANTO (the "Injured Party").

5. Any injury (or injuries) suffered by the Injured Party in addition to
those injuries related to the Injured Party's Pancreatic Cancer, which is alleged to
have been caused by the drug(s) ingested as set forth below (put "None" if
applicable): NONE

6. Injured Party's spouse or other party making loss of consortium claim:
NOT APPLICABLE

7. Other Plaintiff(s) and capacity, if Injured Party is deceased or
otherwise incapacitated (i.e., administrator, executor, guardian, representative,
conservator, successor in interest): JOSEPH A. PANTO

8. City(ies) and State(s) of residence of Injured Party at time of ingestion
of the Drug(s): EASTON, PA

1 9. City and State of residence of Injured Party at time of pancreatic
2 cancer diagnosis (if different from above): EASTON, PA.

3 10. City and State of residence of Injured Party at time of diagnosis of
4 other Injury(ies) alleged in Paragraph 5 (if different from above): EASTON, PA.

5 11. If applicable, City and State of current residence of Injured Party (if
6 different from above): NOT APPLICABLE.

7 12. If applicable, City and State of residence of Injured Party at time of
8 death (if different from above): EASTON, PA.

9 13. If applicable, City and State of current residence of each Plaintiff,
10 including any Consortium and or other Plaintiff(s) (i.e., administrator, executor,
11 guardian, representative, conservator, successor in interest): EASTON, PA
12 _____.

13 14. Check box(es) of product(s) (the "Drugs") for which you are making
14 claims in this Complaint:

15 ☐ Byetta. Dates of use: _____.

16 ☒ Januvia. Dates of use: 01/07/2008 – 05/02/2011
17 _____.

18 ☐ Janumet. Dates of use: _____.

19 ☐ Victoza. Dates of use: _____.

20 15. Date of pancreatic cancer diagnosis: 05/03/2011.

21 16. If applicable, date of other injuries alleged in Paragraph 5: NOT
22 APPLICABLE.

23 17. If applicable, date of death: 01/04/2013.

24 DEFENDANTS NAMED HEREIN

25 (Check Defendants against whom Complaint is made)

26 ☐ Amylin Pharmaceuticals, LLC

27 ☐ Eli Lilly and Company

28 ☒ Merck Sharp & Dohme Corp.

☐ Novo Nordisk Inc.

CAUSES OF ACTION

(Counts in the Master Complaint brought by Plaintiff(s))

☒ Count I – Strict Liability – Failure to Warn

☒ Count II – Strict Liability – Design Defect

☒ Count III – Negligence

☒ Count IV – Breach of Implied Warranty

☒ Count V – Breach of Express Warranty

☒ Count VI – Punitive Damages

☐ Count VII – Loss of Consortium

☒ Count VIII – Wrongful Death

☒ Count IX – Survival Action

☒ Other Count(s): 73 Pa. Stat. Ann. §§201-1 through 201-9.3 (Unfair Trade Practices and Consumer Protection Law)

Plead factual and legal basis for any Other Count(s) in separately numbered Paragraphs (beginning with Paragraph 18) that provide sufficient information and detail to comply with the applicable Federal Rules of Civil Procedure.

PRAYER FOR RELIEF AND, AS APPLICABLE,

PRAYER FOR RELIEF FOR SURVIVAL AND WRONGFUL DEATH

WHEREFORE, Plaintiff(s) pray(s) for relief as set forth in the Master Complaint filed in MDL No. 2452.

JURY DEMAND

Plaintiff(s) hereby ☒ demands ☐ **does not** demand a trial by jury on all issues so triable.

1 Dated: December 26, 2013.

2 RESPECTFULLY SUBMITTED,

3 By: /s/ Trevor B. Rockstad

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